

NO SECURITY INFORMATION  
Released to District

Date: [REDACTED]

Signature: [REDACTED]

[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Applicant:

We have considered your application for recognition of exemption from federal income tax as an organization described in section 501(c)(4) of the Internal Revenue Code. Based on the information submitted, we have concluded that you do not qualify for exemption under that section.

You were created on [REDACTED] by the adoption of articles of association. Your articles of association state that your purposes are educational, and specifically to enhance music education through music instruction, music performance, music competition, and related travel. You are governed by [REDACTED] board of directors which is composed of [REDACTED] who make up the [REDACTED]. Although your articles of association state that upon dissolution, assets will be distributed for exempt purposes, in your application for exemption you stated that assets will be divided equally among [REDACTED]

[REDACTED] has been playing together for several years. In [REDACTED] their ability as an ensemble of musicians had risen to such a level that they began to receive numerous requests to give performances by a variety of organizations, and began to receive payment for some of their performances to help with their expenses. All money received has been placed in a fund to cover their expenses for travel, ensemble instruction, sheet music, and other equipment and supplies. It is anticipated that the majority of the money they earn will be used to cover travel expenses for [REDACTED] performances. In 1986, the [REDACTED] gave [REDACTED] performances, about half of which were unpaid.

Section 501(c)(4) of the Internal Revenue Code, as amended by Taxpayer Bill of Rights 2, Pub. L. No. 104-168, 110 Stat. 1452, describes, in relevant part, civic leagues or organizations not organized for profit but operated exclusively for the promotion of social welfare, no part of whose net earnings inures to the benefit of any private shareholder or individual.

Section 1.501(c)(4)-1(a)(1) of the Income Tax Regulations provides that a civic league or organization may be exempt as an organization described in section 501(c)(4) if it is not organized or operated for profit and it is operated exclusively for the promotion of social welfare.

Section 1.501(c)(4)-1(a)(2)(i) of the regulations provides that an organization is operated exclusively for the promotion of social welfare if it is primarily engaged in promoting in some way the common good and general welfare of the people of the community. An organization embraced within this section is one which is operated primarily for the purpose of bringing about civic betterments and social improvements. A social welfare organization will qualify for exemption as a charitable organization if it falls within the definition of charitable set forth in paragraph (d)(2) of Sec. 1.501(c)(3)-1 and is not an action organization as set forth in paragraph (c)(3) of Sec. 1.501(c)(3)-1.

In Commissioner v. Lake Forest, Inc., 305 F.2d 814 (4th Cir. 1962), the Fourth Circuit Court of Appeals held that an organization providing housing on a cooperative basis did not exclusively promote social welfare as defined in section 501(c)(4) because it benefited a private group of individuals, not the community as whole. It was a private cooperative undertaking for the benefit of its members, enabling them to save for a home to satisfy their own material ambitions.

In Contracting Plumbers Cooperative Restoration Corp. v. United States, 488 F.2d 684 (2d Cir. 1973), cert. denied, 419 U.S. 827, 685,687 (1974), the Court of Appeals held that an organization assisting member plumbers in their profession by repairing the cuts they made in city streets was not exempt under section 501(c)(4). The court concluded that the organization was not primarily devoted to the common good because it provided substantial benefits to its private members that were different than those benefits provided to the public. The grounds for this holding were 1) the plumbers' apparent business interest in forming the organization, 2) the mutual aid purpose of the organization indicated in its bylaws, 3) the substantial member benefits evidenced because the organization provided members better services at cheaper prices than would have been eventually charged by the city while providing no services to nonmembers, and 4) the receipt by members of economic benefits precisely to the extent they used and paid for the organization's services.

Rev. Rul. 67-392, 1967-2 C.B. 191, describes a nonprofit membership organization that was formed to promote and encourage the talent and ability of young musical artists in concert technique. The organization works with musicians and singers who are interested in acquiring concert experience. These individuals either have finished formal training or are in advanced stages of their

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musical education but have not yet reached the state of development and professional recognition needed to obtain concert engagements with enough regularity to earn a living from their profession. Although some of the participating artists contribute to the organization, none are members. The organization conducts weekly workshop sessions for training artists in concert technique. The organization also sponsors public concerts by the artists. A further activity of the organization is securing bookings for the artists. This activity is aimed at improving the professional standing of the performer. Artists booked for this type of concert are those who have not yet reached a point in their careers where they could, independently or through a professional agent, secure enough remunerative engagements to support themselves. This organization was determined to be exempt from Federal income tax under section 501(c)(3) of the Code.

Rev. Rul. 69-175, 1969-1 C.B. 149, describes a nonprofit organization, formed by parents of pupils attending a private school, that provides school bus transportation for its members' children. The ruling states that when a group of individuals associate to provide a cooperative service for themselves, they are serving a private interest. By providing bus transportation for school children, under the circumstances described, the organization enables the participating parents to fulfill their individual responsibility of transporting their children to school. Thus, the organization serves a private rather than a public interest and does not qualify for exemption under section 501(c)(3) of the Code.

The court cases and revenue rulings cited above demonstrate that, even prior to the amendment of section 501(c)(4) of the Code, mere organization on a non-profit basis was insufficient to establish exemption under section 501(c)(4). An organization seeking such status must demonstrate that it is primarily engaged in activities promoting social welfare rather than benefitting a limited number of persons in their individual capacities. Like the organization in Contracting Plumbers Cooperative Restoration Corp. v. United States, you provide substantial benefits to ██████████ as demonstrated by your directors' financial interest in forming the organization, the purpose of benefiting your ██████████ as indicated in your articles of association, and the substantial benefits to ██████████ from the payment of their personal expenses. Like the organization in Commissioner v. Lake Forest, Inc., you benefit primarily a private group of individuals by the payment of their personal expenses.

While you have applied for exemption under section 501(c)(4) of the Code, not section 501(c)(3), section 501(c)(3) precedents are helpful in distinguishing activities which benefit the public from activities which further private interests. As a general rule, organizations which qualify for exemption under section 501(c)(3) of the Code would also qualify for exemption under section 501(c)(4). See Reg.

[REDACTED]

1.501(c)(4)-1(a)(2). You are distinguishable from the organization described in Rev. Rul. 67-392 in two important ways. First, that organization's activities were open to any qualified musician who wished to participate. Your musical education activities are limited to [REDACTED]. Second, the organization described in Rev. Rul. 67-392 was not controlled by [REDACTED] or by other persons having a financial interest in the organization's activities.

Furthermore, the legislative history relating to the amendment of section 501(c)(4) by Taxpayer Bill of Rights 2 indicates that Congress intended to extend the anti-inurement rules of section 501(c)(3) to section 501(c)(4) organizations. Like the organization described in Rev. Rul. 69-175, your directors have created an organization to provide benefits to themselves by fulfilling their individual responsibility of paying for the musical education of [REDACTED]. Thus, you serve a private rather than a public interest. Your specific purposes, as stated in your articles of association, as well as your activities, indicate that you intend to benefit the members of the trio, not the general public. Any benefit to the public is incidental to the private benefit conferred by your activities.

Therefore, we rule that you are not exempt from federal income tax as an organization described in section 501(c)(4) of the Code.

You have the right to protest our ruling if you believe that it is incorrect. To protest, you should submit a statement of your views, with a full explanation of your reasoning. This statement must be submitted within 30 days of the date of this letter and must be signed by one of your officers. You also have a right to a conference in this office after your statement is submitted. If you want a conference, you must request it when you file your protest statement. If you are to be represented by someone who is not one of your officers, he/she must file a proper power of attorney and otherwise qualify under our Conference and Practice Requirements.

If we do not hear from you within 30 days, this ruling will become final and copies will be forwarded to your key District Director. Thereafter, if you have any questions about your federal income tax status, including questions concerning reporting requirements, please contact your key District Director.

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[REDACTED]

You will expedite our receipt of your reply by using the following address:

Internal Revenue Service  
[REDACTED]  
1111 Constitution Ave., NW  
Washington, DC 20224

Sincerely,

[REDACTED]  
Chief, Exempt Organizations  
Technical Branch [REDACTED]

Code	[REDACTED]			
Surname	[REDACTED]			
Date	[REDACTED]			